

T.D. (4)

## Certificate Under 37 C.F.R. § 3.73(b)

Applicant/Patent Owner: XOMA Technology Ltd.Application No./Patent No.: 09/610,838Filed/Issue Date: July 6, 2000Entitled: Fusion Proteins and Polynucleotides Encoding Gelonin SequencesXOMA Technology Ltd.

(Name of Assignee)

a Corporation

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest, or
2. ☐ an assignee of an undivided part interest

in the patent application/patent identified above by virtue of either:

- A. ☐ An Assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

OR

- B. ☒ A chain of title from the inventor(s) of the patent application/patent identified above to the current assignee as shown below:

1. From: the inventors To: XOMA Corporation

The document was recorded in the Patent and Trademark Office at  
Reel 9153, Frame 0378, or for which a copy thereof is attached.

2. From: XOMA Corporation To: XOMA Arizona, Inc.

The document was recorded in the Patent and Trademark Office at  
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3. From: XOMA Arizona, Inc. To: XOMA Corporation (Arizona)

The document was recorded in the Patent and Trademark Office at  
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☒ Additional documents in the chain of title are listed on a supplemental sheet.☒ Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the PTO. See MPEP 302-302.8]

The undersigned (whose title is supplied below) is empowered to act on behalf of the assignee..

Date: 11/20/01Name: Christopher J. MargolinTitle: Vice President, General Counsel and Secretary

Signature: \_\_\_\_\_

Appl. No. 09/610,838  
Better *et al.*Certificate Under 37 C.F.R. § 3.73(b)  
Supplemental Sheet

4. From: XOMA Corporation (Arizona) To: XOMA Ltd.  
The document was recorded in the Patent and Trademark Office at  
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5. From: XOMA Ltd. To: XOMA Technology Ltd.  
The document was recorded in the Patent and Trademark Office at  
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Michele A. Cimbalà  
Michele A. Cimbalà, Registration No. 33, 851

Date: 11/20/01

009020" 85307960

PTO/SB/25 (10-93)

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Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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**TERMINAL DISCLAIMER TO OBIVATE A DOUBLE PATENTING  
REJECTION OVER A PENDING SECOND APPLICATION**Docket Number (Optional)  
0610.098000A/MAC

In re Application of: Better et al.

Application No.: 09/810,838

Filed: July 6, 2000

For: Fusion Proteins And Polynucleotides Encoding Galenin Sequences

The owner, XOMA Technology Ltd., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending second application, Application Number 09/711,485, filed on November 13, 2000, the term being defined in 35 U.S.C. 154 to 156 and 173, as shortened by any terminal disclaimer filed prior to the grant of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

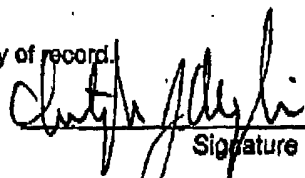
In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☒ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☐ The undersigned is an attorney of record.

  
Signature

11/20/01  
Date

Christopher A. Margolin

Typed or printed name

Vice President, General Counsel  
and Secretary

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
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REJECTION OVER A PRIOR PATENT**Docket Number (Optional)  
0610.099000A/MAC

In re Application of: Better et al.

Application No.: 09/610,838

Filed: July 6, 2000.

For: Fusion Proteins And Polynucleotides Encoding Gelonin Sequences

The owner, XOMA Technology Ltd., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,146,850. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

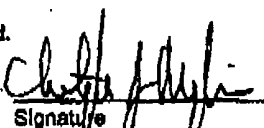
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2. ☐ The undersigned is an attorney of record.

  
Signature

11/20/01  
Date

Christopher J. Margolin  
Typed or printed name  
Vice President, General Counsel  
and Secretary

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT**Docket Number (Optional)  
0610.099000A/MAC

In re Application of: Better et al.

Application No.: 09/610,838

Filed: July 6, 2000

For: Fusion Proteins And Polynucleotides Encoding Gelonin Sequences

The owner, XOMA Technology Ltd., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 179, as presently shortened by any terminal disclaimer, of prior Patent No. 5,759,989. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 179 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is released, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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2. ☐ The undersigned is an attorney of record.

*Christopher J. Margolin*  
Signature

*11/20/01*  
Date

Christopher J. Margolin

Typed or printed name

Vice President, General Counsel  
and Secretary

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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Michele A. Cimbalà, Registration No. 33, 851

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09610838-070600

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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT**Docket Number (Optional)  
0610.099000A/MACIn re Application of: Better *et al.*

Application No.: 09/610,838

Filed: July 6, 2000

For: Fusion Proteins And Polynucleotides Encoding Gelonin Sequences

The owner, XOMA Technology Ltd., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 178, as presently shortened by any terminal disclaimer, of prior Patent No. 5,837,481. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 178 of the prior patent, as presently shortened by any terminal disclaimer. In the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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2. ☐ The undersigned is an attorney of record.

Signature

Date

Christopher V. Margolin

Typed or printed name

Vice President, General Counsel  
and Secretary

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

ATTORNEYS AT LAW

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AND PROCEEDINGS BEFORE  
FEDERAL COURTS & AGENCIES  
\*\*REGISTERED PATENT AGENT  
\*\*\*SENIOR COUNSEL

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WRITER'S DIRECT NUMBER:  
(202) 371-2544  
INTERNET ADDRESS:  
MCIMBALA@SKGF.COM

November 20, 2001

Commissioner for Patents  
Washington, D.C. 20231

Via Hand Carry to Examiner A. Salimi  
Art Unit 1643

Re: U.S. Utility Patent Application  
Appl. No. 09/610,838; Filed: July 6, 2000  
For: **Fusion Proteins and Polynucleotides Encoding Gelonin Sequences**  
Inventors: **BETTER et al.**  
Our Ref: **0610.099000A/MAC**

Sir:

Transmitted herewith for appropriate action are the following documents:

1. Fee Transmittal Form PTO (SB/17);
2. First Supplemental Information Disclosure Statement;
3. A listing of the cited document on form PTO-1449;
4. Copy of the cited document on form PTO-1449 (AS33);
5. SKGF check no. 33254 in the amount of \$180.00 to cover the Information Disclosure Statement fee; and
6. Return Post card.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036. A duplicate copy of this letter is enclosed.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

*Michele A. Cimbala*  
Michele A. Cimbala  
Attorney for Applicants  
Registration No. 33,851

MAC:krm  
Enclosures

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# FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

## Complete if Known

Application Number	09/610,838
Filing Date	July 6, 2000
First Named Inventor	Marc BETTER
Examiner Name	Salimi, A.
Group Art Unit	1643
Attorney Docket No.	0610.095000A/MAC

TOTAL AMOUNT OF PAYMENT \$180.00

## METHOD OF PAYMENT (check one)

1. ☐ The Commissioner is hereby authorized to charge indicated fees and credit any overpayment to:

Deposit Account Number 19-0036  
Deposit Account Name Sterne, Kessler, Goldstein & Fox P.L.L.C.

☒ Charge Any Additional Fee Required Under 37 CFR §§ 1.16 and 1.17

☐ Applicant claims small entity status See 37 CFR 1.27

2. ☒ Payment Enclosed:  
☒ Check ☐ Credit card ☐ Money Order ☒ Other\*  
\*Charge any deficiencies or credit any overpayments in the fees or fee calculations of Parts 1, 2 and 3 below to Deposit Account No. 19-0036.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	330	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	
SUBTOTAL (1) (\$)					

### 2. EXTRA CLAIM FEES

Total Claims \_\_\_\_ - 20\*\* = \_\_\_\_ X \_\_\_\_ = \_\_\_\_  
Indep. Claims \_\_\_\_ - 3\*\* = \_\_\_\_ X \_\_\_\_ = \_\_\_\_  
Multiple Dependent \_\_\_\_ = \_\_\_\_

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim
108	84	209	42	**Reissue independent claims over original patent
110	18	210	9	**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

\*\* or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for <i>ex parte</i> reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	130	123	130	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt	\$180.00
581	40	481	40	Recording each patent assignment per property (each number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify):

Other fee (specify):

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 180.00

## SUBMITTED BY

## Complete (if applicable)

Name (Print/Type)	Michele A. Cimballa	Registration No. (Attorney/Agent)	33,851	Telephone	202-371-2600
Signature	<i>Michele A. Cimballa</i>	Date	11/20/01		

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